

WILLIAM AND MARIE BLANCHARD

IBLA 80-488

Decided May 19, 1980

Appeal from decision of the California State Office, Bureau of Land Management declining to record mining claims. CA MC 59904, CA MC 59905.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Generally --  
Federal Land Policy and Management Act of 1976: Recordation of  
Mining Claims and Abandonment -- Mining Claims: Recordation

The regulations governing recordation of mining claims are mandatory, and failure to comply therewith must result in a finding that the claim has been abandoned and is void. Under sec. 314 of the Federal Land Policy and Management Act of Oct. 21, 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1-2, the owner of an unpatented mining claim located prior to Oct. 21, 1976, must file a copy of the official record of the notice or certificate of location of the claim with the proper Bureau of Land Management Office on or before Oct. 22, 1979.

APPEARANCES: Sandra S. Michael, Esq., Michael, Feilzert & Cammuck, Stockton, California, for appellants.

OPINION BY ADMINISTRATIVE JUDGE FISHMAN

This appeal is taken from a decision dated February 27, 1980, by the California State Office, Bureau of Land Management (BLM), declining to record the Little Star and Big Star lode mining claims for failure to meet filing requirements under section 314 of the Federal

Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833. Specifically, the decision appealed from states that although maps and filing fees were received in October and December 1979, respectively, no copies of the notices of location had been received as of February 27, 1980.

Appellants, whose claims were located in 1967, state on appeal that failure to file the notices was due to a misunderstanding. They have submitted one notice of location with their statement of reasons and ask for an extension of time within which to file the other.

[1] One of the pertinent regulations, 43 CFR 3833.1-2, provides in relevant part:

The owner of an unpatented mining claim, mill site or tunnel site located on or before October 21, 1976, on Federal lands, \* \* \* shall file (file shall mean being received and date stamped by the proper BLM Office) on or before October 22, 1979, in the proper BLM Office, a copy of the official record of the notice or certificate of location of the claim or site filed under state law. If state law does not require the recordation of a notice or certificate of location of the claim or site, a certificate of location containing the information in paragraph (c) of this section shall be filed.

In the event a mining claimant fails to comply with the recordation requirements, the regulations further provide:

§ 3833.4 Failure to file.

(a) The failure to file such instruments as are required by §§ 3833.1 and 3833.2 within the time periods prescribed therein, shall be deemed conclusively to constitute an abandonment of the mining claim mill site, or tunnel site and it shall be void. [Emphasis supplied.]

The mining recordation regulations are mandatory and failure to comply therewith must result in a finding that the claims have been abandoned. Walter T. Paul, 43 IBLA 119 (1979); Dale C. Delor, 40 IBLA 88 (1979); Roy W. Byram, 39 IBLA 32 (1979); R. Wade Holder, 35 IBLA 169 (1978).

The regulations contain no provisions allowing for extensions of time to meet statutory requirements where the deadlines have not been met. Since appellants' claims were located prior to October 21, 1976, they were obliged to file copies of the notices or certificates of location with BLM on or before October 22, 1979. In absence thereof, the claims were properly deemed abandoned and are void.

Appellants may, however, relocate their claims if for locatable minerals, and make the filings required by 43 CFR 3833.1, subject to any intervening rights of third parties and assuming no intervening closure of the land to mineral location.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Frederick Fishman  
Administrative Judge

We concur:

Edward W. Stuebing  
Administrative Judge

Joan B. Thompson  
Administrative Judge

